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CC: 'Bobby Stepp'rstepp@sowellgray.com
Date: 10/16/2015 9:40:38 AM
Subject: RE: Abbeville Motion to Vacate Draft

Good morning:

I've had a chance to speak with Speaker Lucas concerning the various drafts of the motion to vacate. He is satisfied with the draft that I circulated yesterday and agrees with Charles, Emma and I about the importance of the emphasis on the logistical argument. Also, he is more than happy to include whatever language from the Senate and Governor that describes their response to the Abbeville II order. He is not willing to participate in the version of the motion drafted by Sowell Gray (that is not commentary on the excellent job done by Sowell Gray). Of course there is always room to alter, add or subtract language to make all parties comfortable, or as comfortable as possible. But, the Speaker is insistent on the two basic concepts outlined in my email yesterday.

Also, I think we'd all like to have this issue resolved ahead of the weekend. The House would like to file with the Court Monday morning, if at all possible.

While it is absolutely preferable that all four of us agree to a single line of argument and that a demonstration of unity, even among these diverse viewpoints, shows strength, I do sense that the Speaker is still willing to file alone if need be, though that would not be his preference.

Thank you all for your hard work and help. Getting two of the three branches of government on the same page is simply not an easy task.

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From: Patrick Dennis
Sent: Thursday, October 15, 2015 4:10 PM
To: Jeff Gossett; 'Bob Cook'; Ken Moffitt; 'Pisarik, Holly'; Emory Smith; Emma Dean; Charles Reid
Subject: RE: Abbeville Motion to Vacate Draft

All:

Please find attached a proposed version from us. It may or may not include a type-o or two, sorry. We are absolutely open to discussing the language, the format or anything else and, of course, we'd gladly agree to whatever language the Senate feels is necessary to describe it's process to the Court.

That said, the House feels strongly about the need to lead with the more practical argument, as the separation of powers argument has been tried and tried again. I more than understand the frustration with the Court's refusal to hear those very valid arguments but it's become clear that they are, in fact, deaf to them. We are convinced that it's time to try a new approach while reiterating what we all know to be true about the constitutional deficiency in the Court's order.

I'd ask that you review the draft with an open mind and keep in mind that we continue to be willing to discuss it.

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From: Jeff Gossett
Sent: Thursday, October 15, 2015 3:32 PM
To: 'Bob Cook'; Patrick Dennis; Ken Moffitt; 'Pisarik, Holly'; Emory Smith; Emma Dean; Charles Reid
Cc: 'Bobby Stepp'; Betsy Gray; 'Roland Franklin'
Subject: RE: Abbeville Motion to Vacate Draft

Earlier today, we sent Roland a short paragraph on the work of the Senate's Special Committee and few other fairly minor suggested edits. Overall, Senator Leatherman was happy with the current draft.

Given that this is likely to be our last opportunity to argue these points, I do not believe that it should be shortened simply for the sake of making it shorter. If there are areas that can be made more succinct and in a way that strengthens the argument, then we would be agreeable. But overall length shouldn't dictate our arguments.

The way Roland has it drafted now, the "Logistical Difficulties" section is very good and the other sections build up to a strong conclusion to the motion.

I suggest that everyone involved provide their comments to Roland and allow him to incorporate those for a final draft for everyone to review.

Jeff

From: Bob Cook [<mailto:BCook@scag.gov>]
Sent: Thursday, October 15, 2015 2:54 PM
To: Patrick Dennis; Ken Moffitt; Jeff Gossett; 'Pisarik, Holly'; Emory Smith; Emma Dean; Charles Reid
Cc: 'Bobby Stepp'; Betsy Gray; 'Roland Franklin'

Subject: RE: Abbeville Motion to Vacate Draft

I agree with Patrick we do not need a “treatise” on separation of powers. I sent one with the full expectation that it would be culled. I do think it is important to reference those cases where the Court deferred to the Legislature in coming up with a remedy.

From: Patrick Dennis [<mailto:PatrickDennis@schouse.gov>]

Sent: Thursday, October 15, 2015 2:41 PM

To: Ken Moffitt; Jeff Gossett; 'Pisarik, Holly'; Bob Cook; Emory Smith; Emma Dean; Charles Reid

Cc: 'Bobby Stepp'; Betsy Gray; 'Roland Franklin'

Subject: Abbeville Motion to Vacate Draft

All:

First, let me please say that Roland and Bobby produced a great draft in a short time and tried mightily to pull together a diverse set of viewpoints into one document.

While it is not what the House would, ideally, like to argue there are significant portions of the draft that we could agree, with the other parties, to submit to the Court. There are two primary, conceptual concerns we have:

1) The House would like to move the “logistical” argument to the front of the document with some acknowledgement that it has not been made before. We think it’s important, given how many times the separation of powers argument has been dismissed and ignored (despite its validity) that we highlight the different approach in this document and that the defendants are raising a new issue. As we discussed last week, we are happy to keep questions out of that discussion and to make blanket statements that even if the logistical questions are answered, those answers do not cure the underlying constitutional issues.

2) The House would like to streamline the documents. We simply believe it is too long as it is currently drafted. While every statement, case and citation in the draft is relevant, we simply do not believe it is all necessary. As with the letter previously sent to the Court, less may have the effect of being more in this document.

If the rest of you are generally (everyone reserving their right to disagree on particulars, of course) agreeable to these concepts, Emma and I are prepared to circulate an updated draft for everyone’s consideration before the end of the day.

I am, as always, available and willing to discuss any of this with any combination of you.

Thanks,

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